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Dated: October 4, 2005

Signature: Judy Calem

(Judy Calem)

Docket No.: 273012011300
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ronald E. BOCH et al.

Allowed: July 5, 2005

Application No.: 09/833,406

Confirmation No.: 3418

Filed: April 11, 2001

Art Unit: 1615

For: DRUG DELIVERY SYSTEM FOR
HYDROPHOBIC DRUGS

Examiner: G. Kishore

**COMMENTS ON STATEMENT OF REASONS
FOR ALLOWANCE UNDER 37 CFR §1.104(E)**

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant has received the Examiner's Statement of Reasons for Allowance with the July 5, 2005 Notices of Allowance and Allowability regarding the above-identified application. Entry of the Statement into the record should not be construed as any agreement with or acquiescence in the reasoning stated by the Examiner. Each of the claims stands on its own merits and is patentable because of the combination it recites and not because of the presence or absence of any one particular element.

The Examiner's Statement was not prepared by Applicant and only contains the Examiner's possible positions in one or more reasons for allowability. Thus, any interpretation with respect to the Examiner's Statement of Reasons for Allowance should not be imputed to the Applicant.

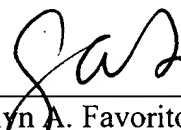
As such, applicants clarify the statement made as follows. Although prior art of record did not teach a composition which "consists of only micelles comprising phospholipids and hydro-monobenzo-porphyrin photosensitizers with diameters below 100 nm," the claims are not limited to "consisting of only" such components.

These comments are filed along with the payment of the issue fee herewith.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 273012011300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 4, 2005

Respectfully submitted,

By 
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TRANSMITTAL FORM

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Total Number of Pages in This Submission

5

Application Number

09/833,406

Filing Date

April 11, 2001

First Named Inventor

Ronald E. BOCH

Art Unit

1615

Examiner Name

G. Kishore

Attorney Docket Number

273012011300

ENCLOSURES (Check all that apply)

☐ Fee Transmittal Form

☐ Fee Attached

☐ Amendment/Reply

☐ After Final

☐ Affidavits/declaration(s)

☐ Extension of Time Request

☐ Express Abandonment Request

☐ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Reply to Missing Parts/
Incomplete Application

☐ Reply to Missing Parts under
37 CFR 1.52 or 1.53

☐ Drawing(s)

☐ Licensing-related Papers

☐ Petition

☐ Petition to Convert to a
Provisional Application

☐ Power of Attorney, Revocation
Change of Correspondence Address

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s) _____

☐ Landscape Table on CD

☐ After Allowance Communication
to TC

☐ Appeal Communication to Board of
Appeals and Interferences

☐ Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

☐ Proprietary Information

☐ Status Letter

☒ Other Enclosure(s) (please
Identify below):

Comments On Statement of
Reasons For Allowance Under 37
CFR §1.104(E) (2 pages);
PTO Form PTOL-85, Part B
(1 page plus duplicate for fee
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

MORRISON & FOERSTER LLP

Signature

Printed name

Carolyn A. Favorito

Date

October 4, 2005

Reg. No.

39,183

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